

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5023 OF 2007

Sajiddullah Ebrahim Ansari & Anr. ... Petitioners

V/s.

Numan Akhtar Jainul Aabdin Ansari & Anr. ... Respondents

Mr.B.J. Sawant for Petitioners

None for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 9, 2007**

P.C.:

. The petition challenges the award in Reference (IDA) No.237 of 2004. It is submitted on behalf of the petitioners that there was no employer-employee relationship between the petitioners and the respondent workman. It is further submitted that an issue to that effect ought to have been framed by the Labour Court while deciding the Reference. It is also submitted that the Labour Court has incorrectly held that the petitioners have indulged in an unfair labour practice under Item 1 Schedule IV of the MRTU & PULP Act when he was deciding the Reference under the Industrial Disputes Act.

2. Admittedly, both the parties have led evidence as to whether the respondent workman was an employee of

the petitioners. The contention of the petitioners that he may have been a workman of the petitioners' Contractor has not been proved by the petitioners. Instead, the respondent has been able to prove by placing reliance on the delivery challans which are exhibited before the Labour Court that they bear his signatures. Merely because the issue has not been framed, it would not be necessary to remand the Reference to the Labour Court since both the parties have led evidence regarding the employer-employee relationship and there is a finding to that effect by the Labour Court. The petitioner has not cared to examine the Contractor to prove that the respondent was the contractor's employee.

3. The submission that there was no need for the Labour Court to observe that the petitioners have engaged in an unfair labour practice while deciding the Reference is not of any consequence. Schedule V has been added to the Industrial Disputes Act and while deciding a Reference, the Labour Court can always advert to Entry 5 of Schedule V which is similar to Item 1 of Schedule IV of the MRTU & PULP Act. The observations of the Labour Court, therefore, do not in any manner require the matter to be remanded. Petition rejected.